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REMARKS

This application has been carefully reviewed in light of the Office Action dated March 6, 2008, wherein:

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A. The specification and Claim 11 were objected to because of informalities.

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The Examiner objected to the specification because it did not list patent numbers and issue dates for several of the granted patent applications to which the present application claims priority. The Examiner also objected to Claim 11 because of several informalities, including that line 2 of the Claim reads “for treatment on cancer cells” and step(c) of the method reads “Zinc Acetate.” The Examiner suggested replacing these terms with “for treatment of cancer cells” and “zinc acetate,” respectively.

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The Applicant respectfully directs the Examiner’s attention to the amendments to the specification and Claim 11 on pages 2-6 of this response. The Applicant has amended the specification and Claim according to the Examiner’s suggestions. In light of these amendments, the Applicant respectfully submits that the specification and Claim 11 are now in condition for allowance.

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B. Claims 11, 14, and 16 were rejected under 35 U.S.C. 103(a) as being obvious over Tsai U.S. Patent 6,720,311 (“the ‘311 Patent”); Lebreton et al. J. Clin. Invest. 64:1118-1129, 1979 (“Lebreton”); and Aebersold et al. U.S. Patent 7,183,118 (“the ‘118 Patent”).

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The Examiner rejected Claims 11, 14, and 16 as obvious over the ‘311 Patent, Lebreton, and the ‘118 Patent. The Examiner noted that the ‘311 Patent constitutes prior art only under 35 U.S. 102(e). The Applicant respectfully disagrees and believes this rejection was made in error. A reference can qualify as prior art under 35 U.S. 102(e) only if the invention is made “by another.” See 35 U.S.C. 102(e). However, the sole inventor of both the ‘311 Patent and the present application is David Tsai. A copy of each oath of David Tsai for the ‘311 Patent and the present application are attached hereto as Exhibit 1 and Exhibit 2. As the ‘311 Patent is not an

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5 invention made "by another", the '311 Patent does not constitute prior art. The Applicant respectfully requests that this rejection under 35 U.S.C. 103(a) of Claims 11, 14, and 16 be withdrawn because the '311 Patent does not constitute prior art and it therefore cannot be combined with the other references cited to provide a proper basis for the rejection.

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## CONCLUSION

The Applicant respectfully submits that in light of the above comments and remarks, Claims 11, 14 and 16 are in allowable condition. The Applicant thus respectfully requests timely allowance of all of these pending claims.

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If the Examiner believes that a telephone or other conference would be of value in expediting the prosecution of the present application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant invites the Examiner to contact Applicant's representative at (310) 777-8399.

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Respectfully Submitted,

TROJAN LAW OFFICES

By

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Dated: May 22, 2008

/R. Joseph Trojan/

R. Joseph Trojan (Reg. No. 34,264)

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## **EXHIBIT 1**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**

☒ Declaration Submitted with Initial Filing      OR      ☐ Declaration Submitted after Initial Filing (surcharge (37 CFR 1.16 (e)) required)

Attorney Docket Number 02-08-1970

First Named Inventor TSAI, David

**COMPLETE IF KNOWN**

Application Number

Filing Date

Art Unit

Examiner Name

As the below named inventor, I hereby declare that:

My residence, mailing address, and citizenship are as stated below next to my name

I believe I am the original and first inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Alpha 2HS Glycoprotein for Treatment of Cancer and a Method for Preparation Thereof

(Title of the Invention)

the specification of which

☒ is attached hereto

OR

☐ was filed on (MM/DD/YYYY)

as United States Application Number or PCT International

Application Number and was amended on (MM/DD/YYYY) (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				YES	NO
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto:

(Page 1 of 2)

Burden Hour Statement: This form is estimated to take 21 minutes to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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PTO/SB/01 (10-01)  
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# DECLARATION — Utility or Design Patent Application

Direct all correspondence to: ☒ Customer Number **23388** OR ☐ Correspondence address below

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that each willful false statements may jeopardize the validity of the application or any patent issued thereon.

NAME OF SOLE OR FIRST INVENTOR: ☐ A petition has been filed for this unsigned inventor

Given Name **David**  
 (first and middle (if any))

Family Name **TSAI**  
 or Surname

Inventor's Signature

David Tsi

Date Oct. 8, 2002

Irvine

CA

USA

USA

Residence: City

State

Country

Citizenship

18 Technology Dr., Suite 170

Mailing Address

Irvine

CA

92618

USA

City

State

ZIP

Country

NAME OF SECOND INVENTOR: ☐ A petition has been filed for this unsigned inventor

Given Name  
 (first and middle (if any))

Family Name  
 or Surname

Inventor's Signature

Date

Residence: City

State

Country

Citizenship

Mailing Address

City

State

ZIP

Country

☐ Additional inventors are being named on the supplemental Additional Inventor(s) sheet(s) PTO/SB/Q2A attached hereto.

## **EXHIBIT 2**

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**DECLARATION FOR UTILITY OR  
DESIGN  
PATENT APPLICATION  
(37 CFR 1.63)**



Declaration  
Submitted  
With Initial  
Filing

OR



Declaration  
Submitted after Initial  
Filing (surcharge  
(37 CFR 1.16 (e))  
required)

Attorney Docket Number

03-10-2151

First Named Inventor

TSAI, David

COMPLETE IF KNOWN

Application Number

Filing Date

Art Unit

Examiner Name

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

ALPHA 1-ACID GLYCOPROTEIN, ALPHA 2-MS GLYCOPROTEIN,  
ALPHA 1-ANTITRYPSIN, AND FRAGMENTS THEREOF  
INDUCE APOPTOSIS IN CANCER CELL LINES

(Title of the invention)

the specification of which



is attached hereto

OR



was filed on (MM/DD/YYYY)

as United States Application Number or PCT International

Application Number

and was amended on (MM/DD/YYYY)

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

(Page 1 of 2)

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## DECLARATION — Utility or Design Patent Application

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.			
NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
David		TSAI	
Inventor's Signature <i>David Tsai</i>			Date 1-16-04
Residence: City	State	Country	Citizenship
Irvine	CA	USA	USA
Mailing Address			
11 Morgan			
City	State	ZIP	Country
Irvine	CA	92618	USA
NAME OF SECOND INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Inventor's Signature		Date	
Residence: City	State	Country	Citizenship
Mailing Address			
City	State	ZIP	Country
<input type="checkbox"/> Additional inventors or a legal representative are being named on the supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.			